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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,336	01/27/2005	Pasi Lahiti	108347-00031	3649
4372	7590	04/23/2008		
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SUITE 400				
WASHINGTON, DC 20036				
EXAMINER				
LAFORGIA, CHRISTIAN A				
ART UNIT		PAPER NUMBER		
2139				
NOTIFICATION DATE		DELIVERY MODE		
04/23/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com

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Office Action Summary

Application No.

10/501,336

Applicant(s)

LAHTI, PASI

Examiner

Christian LaForgia

Art Unit

2139

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment of 29 January 2008 has been noted and made of record.
2. Claims 1-4 and 6-8 have been presented for examination.

Response to Arguments

3. Applicant's arguments, see page 3, filed 29 January 2008, with respect to the objection to the specification have been fully considered and are persuasive. The objection of the specification has been withdrawn.

4. Applicant's arguments with respect to the prior art rejections filed 29 January 2008 have been fully considered but they are not persuasive.

5. The Applicant argues that the prior art does not teach that an e-mail gateway, responding to a received notification of a new virus break out, suspends delivery of e-mails and their attachments and then resuming normal delivery upon notice of the e-mails have been scanned with any updated virus signatures. As noted in the previous Office Action, and again below, Tarbotton teaches a method for scanning an received e-mail and upon detecting unwanted properties in the e-mail buffering it until such a time that the virus signatures are updated so it can be rescanned and, if it is found to be virus-free delivering the e-mail to the intended recipient. The Examiner has held that Tarbotton does not teach performing the quarantining of received e-mails upon the e-mail gateway receiving notice of a virus outbreak. The Examiner relied on Shipp to teach e-mail gateways sharing information regarding new virus outbreaks. The Examiner holds that it would have been obvious to one of ordinary skill to combine the gateway notification of Shipp with the quarantining of Tarbotton to arrive at the invention of the instant application since Shipp states at paragraphs 0096 that alerting e-mail gateways of new

viruses allows them to intercept the viruses, recognize the symptoms, and stop further occurrences before the virus becomes too widespread. The applicants appear to argue against the references individually. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Since the applicant has argued against the references separately and the Examiner has shown the combination of references teaches the invention of the instant application the rejection of at least claims 1-4 is maintained.

6. See further rejections set forth below.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,757,830 B1 to Tarbotton et al., hereinafter Tarbotton, in view of U.S. Patent Application Publication 2004/0054498 A1 to Shipp, hereinafter Shipp.

9. As per claim 1, Tarbotton teaches a method of preventing the infection of a computer network by a computer virus, where that virus can be spread by e-mail traffic, the method comprising:

installing at an e-mail gateway of the network an anti-virus application, which application scans at least incoming e-mail traffic for known viruses (Figures 1 [blocks 8, 10, 12], 2, 3 [blocks 26, 42], column 5, lines 37-41, column 5, line 59 to column 6, line 3, i.e. mail server includes anti-virus and anti-spam system that detects unwanted properties in e-mails);

a provider of the anti-virus application, sending updates to the anti-virus application (Figure 1 [block 14], column 5, line 58 to column 6, line 3); and

at the anti-virus application, responding to said notification by failing to deliver incoming e-mails or their attachments to their recipients within the network (Figure 3 [blocks 32, 34, 36], column 6, lines 59-67, column 7, line 21-14, i.e. applying a delay based on e-mail attributes) and causing these e-mails or attachments to be re-directed to a buffer for safe storage (Figure 2 [block 16], column 6, lines 4-14, i.e. dirty mail store);

subsequently generating a signature for the virus at the anti-virus application provider and providing that signature to the application at the gateway (column 1, lines 37-54, column 5, lines 41-47, i.e. anti-virus provider create and distribute countermeasures)

at the gateway, after receiving the signature, using the application to scan the previously buffered e-mails or attachments for the virus (column 7, lines 7-13);

after scanning the previously buffered e-mails, delivering e-mails or attachments which are virus free to their recipients (column 6, lines 42-55, i.e. delivering disinfected e-mails).

10. Tarbotton does not teach when a new virus is detected by the provider of the anti-virus application, sending a notification of this event from the provider to the anti-virus-application, discontinuing the normal handling of e-mails and resuming the normal handling after appropriate actions have been taken.

11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to discontinue the normal handling of e-mails when notified of a new virus and subsequently resuming the normal handling of e-mails when appropriate countermeasures have been taken, since one of ordinary skill in the art would realize that discontinuing the normal

handling of e-mails would minimize the damage incurred by a new virus since Tarbotton discloses at column 1, lines 37-54 that the speed with which e-mail is distributed an unchecked hour can result in dire consequences for the computer systems. Therefore, by discontinuing e-mail service temporarily, a skilled artisan would prevent damage to the computer network.

12. Shipp teaches an e-mail server alerting other e-mail servers of new or previously unknown viruses (paragraph 0138).

13. It would have been obvious to one of ordinary skill in the art at the time the invention was made to send notification of a new virus from the anti-virus provider to the anti-virus application, since Shipp states at paragraphs 0096 that alerting e-mail gateways of new viruses allows them to intercept the viruses, recognize the symptoms, and stop further occurrences before the virus becomes too widespread.

14. Regarding claim 2, Tarbotton teaches establishing a communication channel between the anti-virus application provider and the anti-virus over the internet (Figure 1 [block 6]). The Applicant admits that TCP/IP and UDP/IP are the most common protocols used on the Internet.

15. Regarding claim 3, Shipp teaches the application provider sending updates to the administrator of the application (paragraph 0138, i.e. alert human operators). The Applicant admits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to send those updates via email.

16. Regarding claim 4, Tarbotton teaches wherein said notification is sent from the application provider to the application as a result of a request or enquiry sent from the application to the provider (Figure 3 [block 38], column 7, lines 1-13).

17. As per claims 6 and 7, Tarbotton teaches an anti-virus application for installation on a network server on which is also installed an e-mail gateway, the application being arranged to interact with the e-mail gateway to scan incoming e-mails and/or e-mail attachments for known viruses, the application having

means the application to prevent delivery of e-mails or e-mail attachments received at the gateway and to divert these e-mails or attachments to a buffer for safe storage (Figures 2 [block 16], 3 [blocks 32, 34, 36], column 6, lines 4-14, column 6, lines 59-67, column 7, line 21-14, i.e. applying a delay based on e-mail attributes and storing the emails in the dirty mail store), and

means the application to cease preventing delivery of newly received e-mails or attachments (Figure 3 [blocks 38, 40], column 7, lines 1-13).

18. Tarbotton does not teach means for receiving a notification from the provider of the application regarding a new virus, and means for subsequently receiving a second notification from the provider signaling that the messages should be delivered.

19. Shipp teaches an e-mail server alerting other e-mail servers of new or previously unknown viruses (paragraph 0138).

20. It would have been obvious to one of ordinary skill in the art at the time the invention was made to send notification of a new virus from the anti-virus provider to the anti-virus application, since Shipp states at paragraphs 0096 that alerting e-mail gateways of new viruses

allows them to intercept the viruses, recognize the symptoms, and stop further occurrences before the virus becomes too widespread.

21. As per claim 8, Tarbotton teaches a method of preventing the infection of a computer network by a computer virus, where that virus can be spread by e-mail traffic, the method comprising:

installing at an e-mail gateway of the network an anti-virus application, which application scans at least incoming e-mail traffic for known viruses using a database of virus signatures (Figures 1 [blocks 8, 10, 12], 2, 3 [blocks 26, 42], column 5, lines 37-41, column 5, line 59 to column 6, line 3, i.e. mail server includes anti-virus and anti-spam system that detects unwanted properties in e-mails);

a provider of the anti-virus application, calculating a checksum for the file carrying the virus or a relevant part of that file (column 9, lines 10-23), and sending a notification containing the checksum from the provider to the anti-virus-application (Figure 1 [block 14], column 5, line 58 to column 6, line 3); and

at the anti-virus application, using the checksum to screen e-mails and/or their attachments for the virus until such time as a signature for the virus is received by the e-mail gateway from the application provider (Figure 3 [blocks 26, 42], column 5, lines 37-41, column 5, line 59 to column 6, line 3, column 9, lines 10-23).

22. Tarbotton does not teach when a new virus is detected by the provider of the anti-virus application, sending a notification of this event and a checksum from the provider to the anti-virus-application.

23. Shipp teaches an e-mail server alerting other e-mail servers of new or previously unknown viruses (paragraph 0138).

24. It would have been obvious to one of ordinary skill in the art at the time the invention was made to send notification of a new virus from the anti-virus provider to the anti-virus application, since Shipp states at paragraphs 0096 that alerting e-mail gateways of new viruses allows them to intercept the viruses, recognize the symptoms, and stop further occurrences before the virus becomes too widespread.

Conclusion

25. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

26. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian LaForgia whose telephone number is (571)272-3792. The examiner can normally be reached on Monday thru Thursday 7-5.

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28. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
29. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christian LaForgia/
Primary Examiner, Art Unit 2139

clf